

Additional Question 7: What policies does Michigan have regarding siting of transmission, and how does that compare to and/or coordinate with policies regarding siting of generation?

Executive summary

1. Approval of transmission siting is given primarily to the MPSC through 1995 PA 30 and 2008 PA 295.
2. Under 2008 PA 295, the MPSC is to consider the recommendations of the Wind Energy Resource Zone Board for transmission facilities proposed to facilitate the transmission of Wind Energy within a Wind Energy Resource Zone.
3. There are no comparable Michigan statutes that apply to the siting of generation facilities, although many local municipalities have adopted ordinances that apply to the siting of such facilities. 2008 PA 286 includes a provision for a utility to seek a certificate of necessity from the MPSC in certain cases.

1. Approval of transmission siting is given primarily to the MPSC through 1995 PA 30 and 2008 PA 295. The MPSC is to consider the recommendations of the Wind Energy Resource Zone Board for transmission facilities proposed to facilitate the transmission of Wind Energy within a Wind Energy Resource Zone.

The Electric Line Transmission Act (1995 PA 30; MCL 460.561 et seq) (“PA 30”) applies to the construction of “transmission” facilities (defined as facilities operating at 100 kv or above) within the State of Michigan. An entity seeking to construct a “major transmission line,” (defined as a transmission line at least 5 miles in length and operating at a voltage level of at least 345 kv), is required to obtain a certificate of public convenience and necessity from the Michigan Public Service Commission before beginning construction. An entity seeking to construct a transmission line other than a “major” transmission line may, but is not required to, apply for a certificate. The benefits of a certificate include that it takes precedence over conflicting local ordinances and laws, and that it serves as a determination of public need in condemnation proceedings.

1. Under 2008 PA 295, the MPSC is to consider the recommendations of the Wind Energy Resource Zone Board for transmission facilities proposed to facilitate the transmission of Wind Energy within a Wind Energy Resource Zone.

As part of the “Clean, Renewable and Efficient Energy Act” (2008 PA 295; “PA 295”), the legislature created the “Wind Energy Resource Zone Board,” and directed it to identify “Wind Energy Resource Zones” within the State of Michigan. This law was

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designed to coordinate new wind generation in wind-rich areas of the state with the transmission planning and siting process. The law requires the MPSC to expedite the siting process for transmission necessary to deliver wind energy from a designated zone. Based upon the Board's recommendations, the Michigan Public Service Commission is authorized to designate the areas deemed likely to be most productive of wind energy. Within such zones, the statute creates a procedure that allows the Michigan Public Service Commission to issue "expedited siting certificates" for transmission facilities that will facilitate the transmission of wind energy located within a wind energy resource zone.

In 2010, the MPSC designated two zones, which cover a portion of Allegan County and the Thumb region. The MPSC approved transmission facilities for the zone in the Thumb under this expedited process. No transmission was identified for Allegan County (and there has not been wind development activity); therefore, there have not been siting proceedings under this statutory provision for that zone.

A dispute regarding the interrelationship of PA 30 and PA 295, and specifically concerning the scope of a certificate issued pursuant to PA 295 has recently been litigated. The Court of Appeals ruled that such a certificate does not authorize construction of transmission facilities, and that only a certificate issued pursuant to PA 30 authorizes construction. In re Application of International Transmission Company for Expedited Siting Certificate, 298 Mich App 338, Court of Appeals Docket Nos. 303009/303040 (2012). This case was the subject of multiple applications for leave to appeal to the Michigan Supreme Court. Supreme Court Docket Nos. 146383/146384. In March, the Michigan Supreme Court reversed the Court of Appeals, and held that a certificate issued pursuant to PA 295 does authorize construction.

3. There are no comparable Michigan statutes that apply to the siting of generation facilities, although many local municipalities have adopted ordinances that apply to the siting of such facilities. 2008 PA 286 includes a provision for a utility to seek a certificate of necessity from the MPSC in certain cases.

Most recently, there has been significant activity by local municipalities to adopt ordinances governing the siting of wind energy projects. These ordinances differ in details, but generally address issues such as setbacks, noise, "flicker" and the ultimate decommissioning of the projects.

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2008 PA 286 includes a provision that allows an electric utility to seek a certificate of necessity from the Michigan Public Service Commission to “construct an electric generation facility, make a significant investment in an existing electric generation facility, purchase an existing electric generation facility, or enter into a power purchase agreement for the purchase of electric capacity for a period of 6 years or longer” if that construction, investment, or purchase costs at least \$500 million. MCL 460.6s. To date, this statute has only been used once, in connection with an application by Indiana Michigan Power Company to make a substantial investment in the Cook Nuclear Plant. See MPSC Case No. U-17026.